RECENT IMPORTANT DECISIONS

ASSIGNMENTS—TRANSFER OF EXPECTANCY.—A, the apparent heir of his mother, executed a warranty deed conveying to defendants his expectancy in the realty of his mother. He died during her life, and after her death his children bring suit to have the deed cancelled as a cloud on their title. *Held,* that the relief prayed should be granted on the ground that the complainants were not bound by the warranty of the father, as they did not take as his heirs, but as the heirs of their grandmother, only tracing relationship through the father. *Johnson* v. *Breeding* (Tenn. 1916), 190 S. W. 545. A transfer by the heir of his expectancy is void at law, being the transfer of a mere contingency or possibility; see cases collected in 4 CYC. 15. In *Jackson* v. *Bradford,* 4 Wend. 619, the conveyance made by the heir in the lifetime of the ancestor was declared void at the suit of one who claimed under a judgment lien entered against the heir prior to the conveyance. In *Wheeler* v. *Wheeler,* 2 Metc. (Ky.) 474, it was held that as the conveyance was void the contract fell with it, and was no defence to an action by the grantor against the executor for the estate devised to him by the will. Where the conveyance is with warranty the grantor and all claiming through him are estopped to set up an after-acquired title. *Fairbanks* v. *Williamson,* 7 Me. 96. The assignment of an expectancy is valid in equity and will be enforced as a contract to convey whenever the expectancy ripens into a vested estate. *Elder* v. *Frazier* (Ia. 1916), 156 N. W. 182. But where, as in the principal case, the expectancy never becomes a vested estate in the grantor, the assignee takes nothing. *Donough* v. *Garland,* 269 Ill. 565, 109 N. E. 1015, Ann Cas. 1916E, 1238 and note. See also *Dungan* v. *Kline,* 81 Oh. St. 371, 90 N. E. 938.

AUTOMOBILES—INJURY TO UNLICENSED MOTORCYCLIST.—Plaintiff, an unlicensed motorcyclist, was run into by defendant, who was operating an automobile. Defendant contended that as plaintiff had no license, he was a mere trespasser on the highway, and entitled to protection only from wanton or malicious injury. *Held,* want of license, being in no way the proximate cause, does not preclude recovery of damages for injuries due to mere negligence. *Marquis v. Messier,* (R. I. 1917), 99 Atl. 527.

This is the accepted view in a majority of the states where this question has come up. *Stovall v. Co.,* 189 Ala. 576, 66 So. 577; *Armstead v. Lounsberry,* 129 Minn. 34, 151 N. W. 542; *Anderson v. Sterit,* 95 Kan. 483, 148 Pac. 635. But the law in Massachusetts has been in a rather peculiar state, from the passage of the old Sunday law down to the cases of *Chase* v. *Railroad Co.,* 208 Mass. 137, and *Bourne* v. *Whitman,* 209 Mass. 155. It has often been said that the early Massachusetts cases failed to distinguish between an illegal act as a condition, and an illegal act as a contributing cause. The cases did, however, draw this distinction in principle (*McGrath* v. *Merwin,* 112 Mass. 467; *Smith* v. *Railroad,* 120 Mass. 490), but this still left the situation unsatisfactory, for the courts could not see their way clear to hold violations of the statutes not a contributing cause. For instance,